

EXHIBIT A

In The Matter Of:
Hodell-Natco Industries, Inc. v.
SAP America, Inc., et al.

Dale Van Leeuwen
July 18, 2012

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Min-U-Script® with Word Index

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1 that period of time.

2 Q. What did the non-compete preclude you from
3 doing?

4 A. Direct competition of services and sales that
5 LSi provided, which was, you know, basically selling
6 enterprise resource planning solutions and consulting in
7 a direct competitive way to LSi.

8 Q. Did you --

9 A. It prohibited me from, you know, talking to or
10 accessing their customer base, so ...

11 Q. Prior to -- prior to working with LSi, you
12 were the owner of a company called IBiS; is that
13 correct?

14 A. The company's name, legal name was the
15 Integrated Business Solutions Group, Incorporated, which
16 was referred to as The IBiS Group, and I was --

17 Q. And what did IBiS do?

18 A. IBiS was a valuated reseller for what was
19 Software Solutions, then changed names to Aperum, and
20 ultimately was acquired by Infor. The products that we
21 built our solutions on were an application called FACTS,
22 F A C T S. It was the application that Hodell-Natco was
23 running for years.

24 Q. When did you form IBiS?

25 A. I formed IBiS in it -- I'm sorry -- in 1994.

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1 Q. Were you the -- you said you were an owner of
2 the company?

3 A. I was the sole owner.

4 Q. Sole owner?

5 A. (Nodding.)

6 Q. Are you familiar with a company by the name of
7 Hodell-Natco?

8 A. I am.

9 Q. How so?

10 A. Hodell-Natco had acquired and implemented
11 facts through a company by the name of SofTech. SofTech
12 was a former employee. I was employed by SofTech prior
13 to starting The IBiS Group. And SofTech ultimately went
14 out of -- went out of business, and I went to work to
15 provide services surrounding the support and ongoing
16 delivery of solutions for Hodell-Natco after SofTech
17 went out of business.

18 Q. And was that by forming IBiS?

19 A. Yes, sir.

20 Q. Okay. When Hodell-Natco acquired FACTS
21 through SofTech, were you employed by SofTech at the
22 time?

23 A. I was, yes.

24 Q. And were you involved in the implementation of
25 FACTS --

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1 Q. Sole owner of IBiS.

2 And IBiS and LSi had not gotten together --

3 A. Formally merged.

4 Q. Merged. Okay.

5 A. Yeah.

6 Q. And when did the merger happen with IBiS and
7 LSi?

8 A. I think it was the end of May 2004, yeah.

9 Q. So when you met with folks from SAP in Atlanta
10 in the late spring of 2004, you were doing that as a
11 representative of IBiS, correct?

12 A. And LSi, because we were -- he had jointly
13 funded it with me.

14 Q. But you had --

15 A. There was no employment there.

16 Q. You were not an employee of LSi at that point
17 in time?

18 A. Correct, that's correct.

19 Q. You had mentioned that you had a list of
20 questions that you went through with SAP. I think you
21 said that you had typed these up on a Word document; is
22 that right?

23 A. Yes.

24 Q. Were those questions specific to Hodell-Natco
25 or were they just about the product -- the Business One

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1 Q. So you don't have a specific recollection of
2 when you spoke to Otto and told him that Business One
3 was good for up to 500 users, right?

4 A. Correct. It was sometime after my trip to
5 Atlanta.

6 Q. You don't remember the exact month of your
7 trip to Atlanta, just that it was the late spring of
8 2004?

9 A. Yes, that's correct.

10 Q. Now, the conversations in Atlanta were prior
11 to your becoming an SAP reseller, correct, reseller or
12 channel partner?

13 A. That's correct, yeah.

14 Q. I use that term reseller to --

15 A. Yes, it's synonymous.

16 Q. Yeah.

17 Do you recall when you became an SAP reseller?

18 A. No, I don't.

19 Q. So it's your belief if Hodell knew before
20 licensing Business One that it had been marketed for
21 companies with up to a hundred employees, that Hodell
22 would not have gone forward with the decision to license
23 that product?

24 A. I would agree that that's the case.

25 Q. And why?

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1 A. Because they were past that already as far as
2 the number of users.

3 Q. Is it your testimony that IBiS was an actual
4 SAP channel partner or reseller?

5 A. I believe -- again, the timing was so close
6 that I believe IBiS held its own partnership with SAP
7 for maybe some window of time, a couple weeks, before
8 the -- before the relationship with LSi took place. It
9 may or may not have been. I mean, I really -- and,
10 again, I don't mean to sound vague or -- or -- if you
11 knew some of the stuff I was going through at that point
12 in time -- I had back surgery. My son was born with
13 cerebral palsy. I was going through cancer. I mean --
14 following that, I went through a divorce. It was a
15 horrible, horrible time.

16 Q. I understand.

17 A. And so I apologize.

18 Q. Well, there's no need for to you apologize.
19 Those are none of those --

20 MR. HULME: Why did you let all those things
21 happen?

22 THE WITNESS: They distracted me a little.

23 BY MR. STAR:

24 Q. None of those are good things, of course.

25 A. I do understand. You're trying to discover

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1 recollection as to whether SAP had actually partnered
2 with The IBiS Group at all?

3 A. I believe at this point in time everything was
4 very synonymous. I mean, SAP was aware about the
5 relationship -- and, again, from a timing perspective,
6 if IBiS was its own partner for a period of time -- I
7 believe it was for a short window of time. I don't
8 know. I'd have to go back and -- if I had the ability
9 to go back and see whether or not there's an
10 agreement -- but I do believe that The IBiS Group was an
11 SAP business partner, as well as LSi and, ultimately, I
12 know that SAP, from a marketing perspective, viewed us
13 as together.

14 Q. Well, as of April 21st, 2005, the date of the
15 e-mail that's 296, you were suggesting to people that
16 IBiS, The IBiS Group, was an actual SAP Business One
17 reseller, correct?

18 A. Mm-hmm (nodding).

19 Q. Yes?

20 A. Yes, I would say that is true.

21 Q. I can tell you that I've seen no document that
22 shows that IBiS was an actual reseller. The only
23 reseller agreement that I'm aware of is the one that we
24 have here as Exhibit 30.

25 A. Okay.

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1 Q. Does that refresh your recollection as to
2 whether, in fact, The IBiS Group as of April of 2004 was
3 actually an SAP reseller?

4 A. It doesn't. It doesn't jog my memory. I
5 don't know.

6 Q. When you were making -- strike that.
7 This'll be 297.

8 (Exhibit No. 297 marked as
9 requested.)

10 BY THE WITNESS:

11 A. The only reason I mentioned that I'm almost
12 100 percent sure that there was a separate agreement for
13 IBiS is the note that is on here for LSi, just kind of
14 jogged my memory. And that was: SAP is aware that LSi
15 currently has a relationship with Aperum, Inc., a
16 software company products of -- for distribution
17 industry. This was a big issue -- I had mentioned
18 previously that I was a president of the ASPA, which was
19 the Aperum Solution Partners Association, and there was
20 a lot of concern in regards to partners taking on a
21 competitive line. And I was pointed at as having --
22 having issue being president of the ASPA and having a
23 competitive line.

24 BY MR. STAR:

25 Q. You're looking at page 27 of the reseller

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1 agreement between SAP and LSi?

2 A. Yes. And that just jogged my memory.

3 That's -- that's all.

4 Of that condition taking place as related to
5 IBiS.

6 Q. So as we sit here right now, is it your belief
7 that as of April 2004, for instance, IBiS Group -- The
8 IBiS Group itself, separate and apart from LSi, was an
9 actual reseller --

10 A. Reseller.

11 Q. -- of Business One?

12 A. Yes. We -- yeah. I'm pretty sure that we had
13 signed a reseller agreement before LSi did.

14 Q. And so when you were out saying things to Otto
15 Reidl, for instance, about the number of users that
16 Business One was appropriate for, you were doing that on
17 behalf of The IBiS Group, weren't you?

18 MR. HULME: Objection, foundation.

19 BY THE WITNESS:

20 A. I don't remember when that conversation took
21 place in relation to that.

22 Q. You were the president, the sole owner of The
23 IBiS Group?

24 A. I don't know that.

25 Q. Do you --